HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (C) No. 1682 of 2007

Petitioner Thagan Bai, wife of Bhauram Nirmalkar, aged about 50 years, resident of Gram Panchayat Nagdha Vikas Khand Nawagarh, District- Durg (C.G.)

Versus

Respondents

1. State of Chhattisgarh, through Panchayat and Rural Development Department, D.K.S. Bhawan, Raipur, District-Raipur ,(C.G.)
2. District Panchayat Durg, Through its Chief Executive Officer, Durg, District-Durg (C.G.)
3. Additional Collector, Bemetara, District- Durg (C.G.)
4. Sub Divisional Officer (Revenue) Bemetara, District- Durg (C.G.)
5. Santosh Thakur, Up-Sarpanch, Gram Panchayat Nagdha, District- Durg (C.G.)
6. Station House Officer, Police Station - Maro District- Durg (C.G.)

Single Bench: Hon'ble Mr. Justice Satish K. Agnihotri.

Present: Mr. Sunil Sahu, Advocate for the petitioner.
Mr. Satish Gupta, Deputy Government Advocate for the State/respondents No. 1, 3, 4 and 6.

O R D E R

(Passed on 10th Day of April, 2007)

1. The petitioner, by this petition, impugns the validity, legality of the order dated 28.2.2007 (Annexure P-5) passed by the Additional Collector, Bemetara in reference under Section 21(4) of the Chhattisgarh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 (hereinafter referred to as 'the Adhiniyam, 1993') in case No. 2A/89/2006-07. The Additional Collector, Bemetara has dismissed the reference on the ground of delay.

2. Section 21(4) of the Adhiniyam, 1993 provides for a reference of dispute to the Collector whereunder it is clearly provided that the reference is to be made within 7 days from the date on which such motion was carried and the Collector is also under an allegation to decide the same as far as possible, within thirty days from the date on which it was received by him.

3. Section 21(4) of the Adhiniyam, 1993 read as under:-

> "[(4) if the Sarpanch or the Upsarpanch, as the case may be, desires to challenge the validity of the motion carried out under sub-section (1), he shall, within seven days from the date on which such motion was carried, refer the dispute to the Collector who shall decide it, as far as possible, within thirty days from the date on which it was received by him, and his decision shall be final.]"

3. There is no provision for condonation of delay. It appears that the intention of the legislature is very clear that in case, where the elected Sarpanch/Up-sarpanch has lost confidence of the members of panchayat, the Sarpanch/Up-Sarpanch against whom motion of no confidence has been carried-out, should not keep it pending for long period in a democratic set-up. It is necessary to elect the Sarpanch as early as possible. Entertaining this petition after delay of 32 days would defeat the very purpose of fixing the time limit for making an application and further for adjudication of the dispute.

4. In the present case, it is the case of the petitioner that the application was filed after 39 days from the date on which no confidence motion was carried-out. The Additional Collector, Bemetara has rightly rejected the said application on the ground of delay as permitting the petitioner to file an application after a period of 39 days would defeat the very purpose of

reference of dispute to the Collector under Section 21(4) of the Adhiniyam, 1993.

5. There is no infirmity, illegality and irregularity in the order to call for indulgence of this Court in its extra-ordinary jurisdiction. Accordingly, this writ petition is dismissed.

Sd/-
S.K. Agnihotri
Judge

Subhash